<u>IN THE UNITED STATES PATENT AND TRADEMARK OFFICE</u>

Applicant(s): Makela et al.

Serial No. : 10/042,344

Filed : January 11, 2002

For : METHOD, SYSTEM, APPARATUS AND COMPUTER PrOGRAM RPODUCT FOR PORTABLE NETWORKING OF MULTI-USER APPLICATIONS

Group Art Unit: 2152

Examiner: T. NGUYEN

<u>RESPONSE TO RESTRICTION REQUIREMENT</u>

Mail Stop
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Kindly consider the following election in response to Restriction Requirement mailed on March 17, 2005.

<u>ELECTION</u>:

The Examiner, in the Office Action mailed on March 17, 2005, required restriction of the claims to one of the following groups:

Group I - Claims 1-13 and 29-42 drawn to a server storing data in response to a request from a client, classified in class 709, subclass 203; and

Group II - Claims 14-28 drawn to a client accessing a remote server, classified in class 709, subclass 219.

The Applicants herein make a provisional election and respectfully traverse the restriction requirement.

There are two criteria for making a proper Restriction Requirement between patentably distinct inventions:

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(1) The inventions must be independent (see MPEP § 802.01, § 806.04, §

808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(i)); and

(2) There must be a serious burden on the examiner if restriction is required (see

MPEP § 803.02, § 806.04(a) - § 806.04(i), § 808.01(a), and § 808.02).

In the Restriction Requirement, the Examiner has identified two distinct inventions

that allegedly require two different fields of search; 1) class 709, subclass 203 and 2) class

709, subclass 219. However, MPEP § 808.02 states that a different field of search is

necessary "where it is necessary to search for one of the distinct subjects in places where no

pertinent art to the other subjects exist." Given the related subject matter in the subclasses

203 (client/server) and 219 (accessing a remote server), the Applicants contend that separate

searches for Groups I and II claims are not necessary for the following reasons.

First, it appears unlikely that the Examiner, during the performance of separate

searches for each of the Groups (I-II), would not come across ample pertinent art for all the

claims in the above-identified Groups (I-II). For example, the subject matter in claims 1-13

and 29-42 (Group I) would most likely be found in both subclasses 203 and 219. Second, the

entire search area for all the claims includes only one class and 2 subclasses. Third, given the

relevance of the claims to all the subject matter in the above classifications and the size of the

search area, it would seem more efficient to search all the claims together. Finally, the

Applicants' position is clearly supported by MPEP §803. MPEP § 803 states, in part, that "if

the search and examination of an entire application can be made without serious burden, the

examiner must examine it on the merits, even though it includes claims to independent or

distinct inventions."

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Accordingly, Applicants respectfully submit that the subject matter of Groups I-II

claims can be searched together without imposing a serious burden on the Examiner.

Therefore, withdrawal of the restriction requirement is respectfully solicited.

However, to fulfill Applicants' duty to reply to the Restriction Requirement, the

<u>Applicants provisionally elect Group I</u>. Applicants reserve the right to file divisional

applications based on any non-elected claims.

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AUTHORIZATIONS

The Commissioner is also hereby authorized to charge any additional fees which may

be required for the timely consideration of this response, or credit any overpayment to

Deposit Account No. 13-4503, Order No. 4208-4044.

Respectfully submitted,
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